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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,863	08/20/2001	Kazuhiko Nobe	Q65711	3533

23373 7590 11/21/2003  
SUGHRUE MION, PLLC  
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WASHINGTON, DC 20037

EXAMINER

MENDOZA, ROBERT J

ART UNIT PAPER NUMBER

3713

DATE MAILED: 11/21/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/931,863

Applicant(s)

NOBE ET AL.

Examiner

Robert J Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 7 is/are rejected.
- 7) ☒ Claim(s) 8-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (USPN 6,227,968) in view of Takase et al. (USPN 6,450,888)**

Suzuki discloses, in col. 9:6-15, an acquisition unit operative to acquire game operation timing at which each of the first and the second player operates the game. Suzuki discloses, in col. 9:6-26 & col. 9:38-59, a data memory operative to memorize timing data that defines game operation timing at which each of the first player and the second player is required to operate the game. Suzuki discloses a game system for providing each of a first player and a second player with a game allowing a player to enjoy operation of the game using a controller according to game music comprising timing acquisition means for acquiring game operation timing at which each of the first player and the second player operates the game, a timing data memory means for memorizing timing data defining game operation timing at which each of the first player and the second player is required to operate the game, a timing guidance means for presenting the game operation timing defined by the timing data to each of the first player and the second player, a game operation evaluation means for verifying the game operation timing acquired by the timing acquisition means with game operation timing defined by the timing data to evaluate game operation by each of the first and the second player, and a operation changing means for

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presenting game operation timing different from the game operation timing defined by the timing data to at least one of the first player and the second player based on a result of evaluation made by the game operation evaluation means by disclosing in col. 15:4-15, the construction is formed in such a way that the guidance means comprises stepping operation instruction content storage means for storing a plurality of types of stepping operation instruction contents having different levels of difficulty, and a stepping operation instruction having a level of difficulty corresponding to the evaluation result from the evaluation means is selectively output from the stepping operation instruction content storage means. This makes it possible to provide a stepping operation instruction of a level corresponding to the dancing ability of the player, making it possible for both a novice and an experienced person to enjoy this game. Suzuki discloses the timing guidance means shows each of the first and the second player a first operation timing instruction image and a plurality of second operation timing instruction images gradually approaching the first operation timing instruction image displayed on a display screen, to thereby show a state in which game operation timing is arriving, and the operation timing change means increases or decreases a number of second operation timing instruction images approaching the first operation timing instruction image with respect to the first player or the second player, to thereby increase or decrease a number of game operation timing to be presented to the first player and the second player by disclosing in col. 9:60-67 & 1-5 and col. 42-48, when the initial two sets of data of the stepping position indication data is set, one set of data of them is scrolled and displayed as the stepping position indication mark M on the display surface in such a manner as to be superposed on the background dance image D. When the scroll display of each stepping position indication mark is started, a monitoring process by the amount-

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of-deviation detection/totaling section is performed. When the score is 20 points, for the one set of data to be set next, one set of data whose level of difficulty is decreased by one rank with respect to this rank is set, and also for the dance image D to be set next, a dance image whose level of difficulty is decreased by one rank with respect to this rank is set. Suzuki lacks in explicitly disclosing changing game operation timing by adding one or more new game operation timing between the game operation timings defined by the timing data. Takase, in an analogous invention, teaches, in col. 25:1-67 and col. 28:1-67, allowing the computer or the player to change the dance routines and timings by adding steps or songs to the routine, or deleting steps or songs to the routine. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Takase into the disclosed invention of Suzuki. One would be motivated to combine the teachings of Takase with the disclosure of Suzuki in order to further accommodate a game player's performance level and increase the overall excitement of the game.

#### **Allowable Subject Matter**

Claims 8-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg, can be reached at (703) 308-1327. The USPTO official fax number is (703) 872-9306.

RM

RM

November 17, 2003

  
Teresa Walberg  
Supervisory Patent Examiner  
Group 3700